IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 1046 of 1996

Between:

1 Challa Lingamma W/o. Guravaiah
R/O Ranipet Village, Chevireddipalli Panchayat
Venkatagiri (M) Nellore Dist.
2 Challa Parvathamma W/o. Nandiswaraiah
R/o. Ranipet (V), Chevireddipalli Panchayat
Venkatagiri (M) Nellore Dist.
3 Anem Lakshmamma W/o. late Kalappa
R/o. Ranipet (V), Chevireddipalli Panchayat
Venkatagiri (M) Nellore Dist.
4 Thamba Bapanakka W/o. late Pedda Chanchaiah
R/o. Ranipet (V), Chevireddipalli Panchayat
Venkatagiri (M) Nellore Dist.

..... PETITIONERS

AND

1 The Dist. Collector
Nellore Dist.
2 The Revenue Divisional Officer
Gudur, Nellore Dist.
3 The Mandal Revenue Officer
Venkatagiri (M), Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declare the order of the 3rd Respondent passed in his proceedings R.C.B/1428/95, dt: 18/1/1996 resuming the lands, of the petitioners in S.NO.96/16, 96/17, 0-98 Cents, S.NO.93/23, 97/3, 97/12 AC.2-70 Cents and S.No.96/6, 96/20 AC-1-26 Cents Ranipet (V), Chevireddipalli Panchayat, Venkatagiri (M), Nellore Dist., after lapse of 34 years as illegal, arbitrary and unconstitutional and consequently direct the respondents not to dispossess the petitioners the land in

question.

Counsel for the Petitioner: MR.G.DASARADHA RAMI REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO.1046 OF 1996

ORDER:

This writ petition is filed questioning the order dated 18.1.1996 passed in proceedings No.Rc.B.No.1428/95. The petitioners claim to be the owners and possessors of land bearing survey Nos.96/16, 96/17 admeasuring Ac.0.98 cents, survey Nos.93/23, 97/3, 97/12 admeasuring Ac.2.70 cents and Survey Nos.96/6, 96/20 admeasuring Ac.1.29 cents situated at Ranipet village, Venkatagiri mandal of Nellore district.

It is the case of petitioners 1 and 2 that they have inherited the property from their fathers, which was assigned to them during the year 1961-62. So far as petitioners 3 and 4 are concerned, they are claiming pursuant to assignment, which was granted in the name of their husbands and after the death of their husbands, they succeeded to the property in question.

Proceedings were initiated against some of the landholders in Survey No.96, for cancellation of assignment, alleging that the assignees violated the conditions of assignment and some of the assignees sold their lands contrary to the provisions of the A.P.Assigned Lands (Prohibition of Transfer) Act 1977 (for short 'the Act'). To the show cause notices issued to the petitioners, they submitted their replies, which

reads as follows:

> " Smt.Challa Lingamma, w/o.Guruvaiah and Smt.Challa Prarvathamma, w/o.Nandeswaraiah have stated that they attained the property after the demise of their father Sri Viswanatham Rachaiah by way deed of their deceased mother Chengamma and from then onwards they are enjoying the land. Further they stated that their father has cultivated from the date of grant to till date and paid land Revenue also. They requested to drop further action. But she did not produce any receipt in support of their claim.
>
> That Smt.Tamba Bapanakka sent reply through lawyer stating that she has not alienated and cultivating the lands since the date of grant to till date and requested to drop further action.
>
> Smt.Anem Laxmamma, w/o.Kalappa replied through lawyer stating that she denied the contents of the notices and requested to drop further action in the issues."

So far as these petitioners are concerned, no finding is recorded on the allegation of alienation, but however, relying on the ex parte report of the Revenue Inspector, a general finding is recorded that there are violations of conditions of patta and also the provisions of the Act, and resumption order is passed.

The learned counsel for the petitioners, Sri G.Dasaratha Ram Reddy, submits that there is no transfer of assigned lands by the petitioners. It is submitted that petitioners 1 and 2 have succeeded the property from their father and the petitioners 3 and 4 have succeeded the property after the demise of their husbands, who were the assignees. It is further submitted that inasmuch as the lands were assigned in the year 1960-61, at this length of time, there is no jurisdiction for the respondents to cancel the assignment. The word

'any time' used in the Board Standing Order, has to be construed as, within 'reasonable time' from the period of assignment, but not after more than 35 years.

On the other hand, it is submitted by the learned Government Pleader that, the

petitioners did not bring the land into cultivation within three years of assignment, which was the condition of the patta, and as such after giving notice to them, the impugned orders were passed.

From the preamble of the impugned order itself it is clear that there was a direction to the governmental authorities to furnish the list of suitable lands fit for public purpose i.e., for location of government offices. In that view of the matter, it appears that an ex parte enquiry was conducted by the Mandal Revenue Inspector, who inspected the lands and reported that the lands in Survey Nos.96 and 97 are lying waste though assignments were made long back and basing on the said report of the Mandal Revenue Inspector, proceedings were initiated. To the show cause notice issued in form-I, the petitioners while denying the allegations, submitted detailed replies. So far as these petitioners are concerned, it is their case that there is no transfer of land and they inherited the same from the original assignees and therefore, they have not violated the conditions of the patta. In spite of the same, without examining the explanation filed by the petitioners, by recording a general finding viz., violation of conditions of D-form patta and also the provisions of the Act 9 of 1977, the impugned orders were passed. A reading of the impugned order shows that it is passed relying on the report of the Madnal Revenue Inspector.

In this case, it is to be seen that the assignments were made in the year 1961-62. With regard to allegations that there is violation of conditions of patta and the provisions of the Act, the petitioners submitted detailed explanations denying the same. When the show cause notices were issued, the respondents ought to have considered the explanations filed by the petitioners with reference to the allegations

in the show cause notice. The report furnished by the Mandal Revenue Inspector is an ex parte report. The same cannot be the basis for cancellation of assignment. Inasmuch as the impugned orders are passed referring to the report, without considering the explanation with reference to the specific allegations against the petitioners, I am of the considered opinion, that this matter requires to be reconsidered by the Mandal Revenue Officer, Venkatagiri. In spite of the specific contention that there is no transfer of land, so far as these petitioners are concerned, by recording a general finding with regard to violation of condition of patta and also provisions of the Act 9 of 1977, this impugned order is passed.

In that view of the matter, I set aside the order dated 18.1.1996 passed in proceedings in Rc.No.1428/95 and direct the Mandal Revenue Officer to conduct enquiry afresh by allowing the petitioners to file further explanations and to pass appropriate orders. It is open for the petitioners to raise all the objections before the Mandal Revenue Officer.

Subject to the above directions, the writ petition is allowed. No order as to costs.

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(JUSTICE R.SUBHASH REDDY)

Dt.24.02.2005.

Mdaa.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the 24th day of February, two thousand and five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Dist. Collector
Nellore Dist.
2 The Revenue Divisional Officer
Gudur, Nellore Dist.
3 The Mandal Revenue Officer
Venkatagiri (M), Nellore Dist.

4. Two C.Cs to G.P.for Revenue, High Court of A.P., Hyderabad (OUT).

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